

THE DELAWARE RULES FOR  
CONTINUING LEGAL EDUCATION  
*effective July 9, 2004*

RULE 1. Purpose. It is of utmost importance to the public and to members of the Bar that attorneys and members of the judiciary maintain their professional competence. To that end, these rules establish the minimum requirements for continuing legal education.

RULE 2. Definitions. As used herein:

(A) "Accredited sponsor" means an organization whose entire continuing legal education program has been accredited by the Commission.

(B) "Approved continuing legal education activity" means a specific, individual continuing legal education activity presented by an Accredited Sponsor or a specific, individual continuing legal education activity accredited by the Commission.

(C) "Association" means the Delaware State Bar Association.

(D) "Attorney" means every person who is a member of the Bar of the Delaware Supreme Court.

(E) "CLE" means Continuing Legal Education.

(F) "Commission" means the Commission on Continuing Legal Education.

(G) "Compliance Year" means the year in which the attorney reaches the December 31 reporting deadline established by Rule 5(A)(2).

(H) "Disciplinary Counsel" means the attorney appointed by the Supreme Court pursuant to Supreme Court Rule 64(a).

(I) "Enhanced Ethics" includes both legal and judicial ethics, which is a set of rules that lawyers and judges must obey, with sanctions for failure, and professionalism, which is a broader concept embodying an attitude and a dedication to civility, skill, businesslike practices and a focus on service, and encompassing obligations to other attorneys, obligations toward legal institutions, and obligations to the public whose interests lawyers must serve.

(J) "Fundamentals Program" means the series of basic courses in legal practice, the subjects of which the Commission will establish.

(K) "In-House Program" means a continuing legal education activity sponsored by a law firm, corporation, governmental agency, or similar entity for the education of its employees or members.

(L) "Judicial Commissioner" means the member of the Commission who is a member of the judiciary.

(M) "Members of the judiciary" includes members of the Supreme Court, Court of Chancery, Superior Court, Family Court, Court of Common Pleas, and the Chief Magistrate of the Justice of the Peace System.

(N) "Out-of-State Attorney" means an active Attorney admitted to the Bar of the Supreme Court of another State and whose principal office is within that State, and who so certifies on the Supreme Court Annual Registration Statement.

(O) "Principal Office" means the Attorney's office of record with the Supreme Court.

(P) "Recently Admitted Attorney" means every Attorney who has been a member of the Bar of the Supreme Court for no more than 4 years and who upon the Attorney's initial admission to

the Bar of the Supreme Court had, as the Attorney's principal occupation, been actively engaged in the practice of law within the United States or its territories for less than 5 years.

(Q) "Reporting Year" means the year immediately following the Compliance Year, in which the Attorney receives and must return the printed Transcript verifying completion of the biennial requirement.

(R) "Senior Attorney" means every Attorney who has been a member of the Bar of the Supreme Court for 40 or more years.

(S) "Supreme Court" means the Supreme Court of Delaware.

(T) "Transcript" means the report prescribed by Rule 5 for reporting compliance.

(U) "Uniform Application" means the Uniform Application for the Accreditation of a Continuing Legal Education Activity as approved by the Organization of Regulatory Administrators of Continuing Legal Education.

### RULE 3. Commission on Continuing Legal Education.

#### (A) Membership, Appointment and Terms

(1) There is established a Commission on Continuing Legal Education. The Commission shall consist of 6 members appointed by the Supreme Court. Members shall be appointed for 3 year terms so that no more than 3 members' staggered terms end each year. No person may serve more than 2 terms as a member of the Commission. One member of the Commission shall be a member of the judiciary whom the Supreme Court designates as the Judicial Commissioner. No more than 1 member of the Commission may be a person who is not an attorney. The appointments to the Commission will be made in light of the principle that it is generally desirable that members of the Commission be from various geographic areas and types of practice in order to reflect the diversity of the Bar.

(2) The Supreme Court shall designate 1 member of the Commission to serve as Chair and 1 to serve as Vice Chair. The Executive Director of the Commission shall serve as Secretary of the Commission.

(3) The Executive Director of the Association, the Chair of the CLE Committee of the Association, the Dean of the Widener University School of Law or the Dean's designee, the Executive Director of the Commission, and the Chief Staff Attorney of the Supreme Court shall serve as ex-officio members of the Commission, but shall have no vote. Three voting members shall constitute a quorum at any meeting.

(4) In the event of a vacancy on the Commission, the Supreme Court shall promptly appoint a new member to complete the term of the member whose departure from the Commission created the vacancy.

#### (B) Powers and Duties of the Commission

(1) The Commission shall have general supervisory authority to administer these Rules.

(2) The Chair may appoint from time to time any committee deemed advisable, and may, with the consent of a majority of the members of the Commission, delegate to any committee such authority as is deemed advisable.

(3) The Commission shall have the following specific duties and responsibilities:

(a) To determine whether all or any portions of any courses or programs of a provider satisfy the educational requirements of Rule 4;

(b) To determine the number of credit hours to be allowed for each course or educational activity;

(c) To encourage established educational organizations to offer courses and programs either within or without the State;

(d) To define subjects to be covered in Fundamentals Program courses and to issue guidelines for the sponsorship of those courses;

(e) To interpret these Rules and adopt policy statements to address issues as to eligibility for credit or amount of credit for particular activities;

(f) To report at least annually to the Supreme Court on the activities and programs of the Commission and to make recommendations to improve the effectiveness of the program established by these Rules;

(g) To report promptly to Disciplinary Counsel any violation of these Rules.

(C) Finances and Administration

(1) The members of the Commission shall serve without compensation. Reasonable expenses of Commission members necessarily incurred in performance of their Commission responsibilities may be reimbursed by applying to the Supreme Court.

(2) The Supreme Court shall hire and determine the compensation of the Executive Director and other employees as part of the Supreme Court's budget process. The Executive Director of the Commission and its other employees shall be employees of the Supreme Court and the State of Delaware.

(3) Funds for the Commission's operations shall be obtained as follows:

(a) The Commission shall determine, subject to the approval of the Supreme Court, an assessment to be paid by attorneys concurrently with the annual registration on or before February 1 of each year required by the Supreme Court Rule 69.

(b) The Commission may adopt a schedule of fees to be charged organizations sponsoring continuing legal education programs as a condition of accreditation for attendees to receive Delaware MCLE credit.

(4) All fees and assessments shall be reasonably calculated to generate funds necessary for the Commission's activities, including payment of salaries of its professional staff.

RULE 4. Education Requirements and Exemptions.

(A) Minimum Continuing Legal Education Requirement

(1) Each Attorney shall complete a minimum of 24 hours of actual instruction in approved continuing legal education activities during each two-year period.

(2) Of the 24 hours, a minimum of 4 hours shall be obtained from programs or portions of programs providing instruction in Enhanced Ethics.

(a) Credit for Enhanced Ethics is awarded for programs or portions of programs clearly designated as instruction in legal ethics or professionalism by program outline and in program materials.

(b) Credit for Enhanced Ethics will also be awarded when a provider confirms that ethical issues are addressed generally within a substantive topic or throughout a program; however, the Attorney must attend the entire program to receive the Enhanced Ethics credit in this situation.

(3) If an Attorney completes more than 24 credit hours of instruction in a two-year period, excess credit up to 20 credits may be carried forward and applied to the education requirement for the succeeding two-year period only; however, no credits to be applied to the Enhanced Ethics requirement may be carried forward.

(4) Senior Attorneys shall be subject to these Rules, except that the number of hours required of a Senior Attorney shall be 12 hours during each two-year period, of which a minimum of 2

hours shall be from instruction in Enhanced Ethics. In addition, all other credit requirements and restrictions within these Rules shall apply to Senior Attorneys in one-half the amount indicated (e.g., 6, not 12 of the required hours may be in videotape instruction as stipulated by Rule 7(C)(4)).

(5) Newly admitted Attorneys shall be subject to these Rules, except that the CLE requirement of a new admittee reporting for the first time shall be prorated according to the number of months of the reporting period remaining after the month in which the newly admitted Attorney is admitted. One-sixth of the prorated credits must be in Enhanced Ethics.

EXAMPLE (1): An Attorney admitted in December of an even-numbered year will be responsible for the full 24-credit hour requirement by December 31 of the next even-numbered year.

EXAMPLE (2): An Attorney admitted in February of an odd-numbered year must complete 10 credit hours, including 1.6 credit hours in Enhanced Ethics, by December 31 of that year.

(a) Newly admitted attorneys may not claim credits earned prior to admission to the Delaware Bar.

(b) All other credit requirements and restrictions within these Rules, except Rule 4(A)(3), shall apply to newly admitted attorneys in proportion to the first reporting requirement (e.g., an attorney with a 5 credit requirement may earn no more than 2.5 credits in videotape instruction as stipulated by Rule 7(C)(4) during the first reporting period). Newly admitted attorneys who complete more than the prorated requirement may carry forward up to 20 excess credits to the following two-year period pursuant to Rule 4(A)(3).

(6) Members of the judiciary shall be subject to these Rules.

**(B) Basic Legal Skills Requirement**

(1) The Commission shall oversee the curriculum requirements for the series of basic legal skills courses in the topics of: Will Drafting and Estate Administration; Family Law; Real Estate; Law Office Management; Civil Litigation; and Lawyer-Client Relations.

(2) Any Accredited Sponsor presenting a program which meets the educational requirements of Rule 6(B) and the curriculum requirements of a particular Fundamentals Program course may apply to the Commission for approval of the seminar as a Fundamentals Program course by submitting completed copies of the Uniform Application and Form 4-A. If the Commission approves the program as a Fundamentals Program course, the sponsor may advertise the course as meeting the requirements of this Rule.

(3) Any Recently Admitted Attorney within 4 years next succeeding the Attorney's admission to the Bar of the Supreme Court must attend Fundamentals of Lawyer-Client Relations and two other courses within the Fundamentals Program series.

(4) Attendance at the Fundamentals Program courses shall be credited towards the recently admitted Attorney's minimum continuing legal education requirement.

**(C) Exemptions**

(1) Any Attorney who has filed a Certificate of Retirement pursuant to the Supreme Court Rule 69(f) shall be exempt from these Rules.

(2) Any Attorney holding an elected public office of this State or the United States and who certifies to the Commission by affidavit that the Attorney is not engaged in the practice of law shall be exempt from these Rules for the period in office.

(3) Any Attorney (other than a member of the judiciary) who becomes an inactive member of the Bar pursuant to Supreme Court Rule 69(d)(i), shall be exempt from these Rules.

(4) Members of the federal judiciary shall be exempt from these Rules.

(5) Any Attorney suspended by the Supreme Court shall be exempt from these Rules.

(6) An Attorney seeking exemption pursuant to Rule 4(C)(1), 4(C)(2) or 4(C)(3) shall so state on the Supreme Court Inactive Certificate. The Commission may request additional information from any Attorney submitting that form to the Supreme Court. Federal judiciary and suspended Attorneys need make no application for exemption.

(D) Comity

(1) An Out-of-State Attorney whose principal office is located within another mandatory CLE State and who is in compliance with the CLE requirements of that State and so certifies on the Transcript shall be deemed in compliance with Rule 4(A), provided that the attorney has satisfied all terms of this Rule for the entire reporting period.

(2) An Out-of-State Attorney whose principal office is within a State which has no CLE requirements shall fulfill the requirements of Rule 4(A).

(E) Resumption of Active Practice

(1) Any exemption granted under Rule 4(C) shall be in effect from the effective date of such inactivity (i.e., the date on which the Certificate of Retirement or Inactive Status is issued by the Supreme Court, the date on which an Attorney is sworn into office, or the date on which an Attorney is suspended) until the Attorney shall again become an active member of the Bar pursuant to Supreme Court Rules.

(2) Upon resumption of active status, an Attorney shall again be subject to CLE Rules, including the particular requirements of Rules 4(A)(1) and 5, except that the number of hours required of the Attorney for the Attorney's next reporting date pursuant to Rule 5(A) shall be prorated based upon:

(a) the amount of time that had elapsed in the Attorney's reporting cycle when the Attorney elected inactive status, and

(b) the amount of time remaining in the Attorney's reporting cycle when the Attorney resumed active status.

At least one-sixth of these credit hours must be in Enhanced Ethics. Credits earned before the Attorney elected inactive status or while the Attorney was inactive shall apply to this requirement, except that credits earned more than two years before the date the Attorney resumes active status shall not apply toward any credit requirements. If an Attorney has been active for 15 or more days of a month, the Attorney shall be required to complete credit for that month.

EXAMPLE (1): An Attorney admitted in an odd-numbered year who elects inactive status on March 6, 2000 and who resumes active status on July 12, 2003, shall complete a total of 8 credit hours, including 1.3 credit hours in Enhanced Ethics, by December 31, 2003: 2 credits under Rule 4(E)(2)(a) and 6 credits under 4(E)(2)(b).

EXAMPLE (2): An Attorney admitted in an even-numbered year who reports compliance on December 31, 2002, elects inactive status on January 1, 2003, and resumes active status on December 18, 2008, shall have no requirement but to complete 24 credit hours, including 4 credit hours in Enhanced Ethics, by December 31, 2010.

(3) Any late fees which were owed to the Commission by the Attorney at the time the Attorney elected inactive status shall be paid to the Commission by the Attorney within 30 days of resumption of active status.

(4) An Attorney resuming active status who qualifies for comity under Rule 4(D)(1), and who certifies to the Commission compliance under that Rule for the entire period of inactive status, shall be deemed in compliance with these Rules.

(5) A Recently Admitted Attorney who has resumed active status and who has not completed the Fundamentals Program shall receive an extension of time for completion of the Fundamentals Program equal to the time the Attorney had remaining to complete the requirement when the Attorney became inactive.

(6) An Attorney who elects inactive status and resumes active status within the same reporting period may either comply with Rule 4(A) or Rule 4(E) as desired.

(7) If the Attorney's initial date of inactive status cannot be determined, or if the attorney assumed inactive status prior to January 1, 1987, the Attorney shall be required to complete the full 24 credit hour requirement pursuant to Rule 4(E)(2)(a), in addition to the credit requirements of Rule 4(E)(2)(b), unless the Attorney qualifies for comity under Rule 4(E)(5).

(8) All other credit requirements within these Rules, except Rule 4(A)(3), shall apply to attorneys resuming active practice in proportion to the requirement (e.g., an attorney with a 40 credit requirement may earn no more than 20 credits in videotape instruction as stipulated by Rule 7(C)(4) during the resumption period). Attorneys resuming active practice who complete more than the prorated requirement may carry forward up to 20 excess credits to the following two-year period pursuant to Rule 4(A)(3). Senior attorneys resuming active practice may carry forward up to 10 excess credits pursuant to the Rule.

#### RULE 5. Reporting Requirements and Attendance Records.

##### (A) Reporting Requirements

(1) The Executive Director is authorized to create a form of Transcript for reporting compliance.

(2) Attorneys admitted to the Delaware Bar in even-numbered years shall complete the credits required by December 31 of even-numbered years; Attorneys admitted in odd-numbered years shall complete the credits required by December 31 of odd-numbered years.

(3) The Commission shall mail the Transcript to all Attorneys with the Supreme Court Annual Registration Statement. An Attorney required to be in compliance by December 31 of the year just ended must sign and return the Transcript, verifying the information shown and making any changes necessary, no later than February 1 of the Reporting Year of the year of mailing. An Attorney who, for whatever reason, files the Transcript after the February 1 of the Reporting Year due date shall pay a \$50.00 late filing penalty. This payment shall be submitted with the Transcript. A Transcript that is postmarked on or before February 1 of the Reporting Year shall be deemed to have been timely filed. A Transcript postmarked later than February 1 of the Reporting Year which is not accompanied by the late filing penalty shall be returned to the Attorney submitting it with a letter informing the Attorney that it will not be accepted without the late filing fee.

(4) An Attorney, who, for whatever reason, files the Transcript after March 1 of the Reporting Year, shall pay to the Supreme Court, in addition to the late filing penalty prescribed by Rule 5(A)(3), \$5.00 for each business day after March 1 of the Reporting Year to and including the date of filing. This payment shall be submitted with the Transcript. The Transcript shall be deemed filed the earlier of the date it is received by the Commission or the date it is postmarked. The Commission may waive all or any part of this penalty for good cause shown.

(5) If an Attorney fails to complete the required credits on or before December 31 of the Compliance Year, the Attorney must nevertheless file the Transcript on or before February 1 of the Reporting Year accompanied by a specific plan for making up the deficiency, as provided in Rule 9.

(6) The Executive Director shall develop a means for selection of no fewer than 10% of the Transcripts received in each year for purposes of verification. The Executive Director shall

cause each Transcript so selected to be subjected to any or all of the following verification procedures:

(a) Comparison of the Transcript to the Commission's records to assure that each listed course was actually accredited and that appropriate applications were submitted and approved for any activities for which the submitting Attorney sought credit;

(b) Asking the Attorney to submit evidence of attendance at courses or participation in activities claimed on the Transcript;

(c) Communicating with a course or activity provider to obtain verification of the Attorney's participation;

(d) Obtaining an approved copy of the Attorney's most recent compliance report from another mandatory CLE state if the Attorney is claiming compliance under the comity clause of Rule 4(D)(1).

(7) If the verification procedures produce reason to believe that an Attorney has submitted a false Transcript or other false information to the Commission, the Executive Director shall bring such information promptly to the attention of the Commission.

**(B) Attendance Records**

(1) The program provider shall create and maintain, for at least 3 years, records of attendance at the courses. Within 45 days after the date on which the program ends, the provider shall submit to the Commission a list of attendees at each activity. This list shall include:

(a) the course identification number as assigned by the Commission;

(b) the full name of each attendee;

(c) the Delaware Supreme Court identification number of each attendee, as available; and

(d) the number of credit hours to which each attendee is entitled, based upon the total number of credit hours approved by the Commission. This number should indicate how many of the credit hours were in Enhanced Ethics.

(2) The Commission may require verified statements as to the accuracy of the reports it receives. To ensure accuracy, providers are requested to have a representative present throughout the program to verify that attendees sign in and out at each program session. However, another record maintenance system may be acceptable if approved by the Commission.

(3) These records may be submitted to the Commission in writing or by electronic transmission in a format approved by the Commission.

(4) In addition to the records submitted to the Commission and retained on file by the provider, the provider shall be required to provide each attendee with a certificate of attendance. This certificate shall include:

(a) the name, address and telephone number of the sponsoring organization;

(b) the course identification number as assigned by the Commission;

(c) the complete title of the course attended;

(d) the date(s), city and state of the course attended;

(e) the total number of credit hours approved by the Commission for the particular course;

(f) the total number of credit hours attended by the Attorney, including a statement of the number of these hours that were in Enhanced Ethics, and

(g) the name and signature of the provider's authorized representative.

(5) The certificate of attendance shall be given to the attendee before the attendee leaves the seminar site. If this is not possible, the certificate of attendance shall be mailed to the attendee as soon as possible after the seminar, and the Commission notified thereof.

(6) An Attorney should keep copies of all attendance certificates, course outlines, agendas, cancelled checks, receipts, travel vouchers, and the like, for 3 years after the last day of any calendar year in which the Attorney attended a course, or until the Attorney receives the approved Transcript for that reporting period, to verify attendance.

(7) The Commission may periodically request an Attorney to produce independent verification of attendance.

**RULE 6. Credit Hours and Accreditation Standards.**

**(A) Credit Hours**

(1) MCLE credit hours shall be computed by the following formula:

$$\begin{array}{llll} \text{Sum of the total minutes} & & & \text{(rounded to the nearest} \\ \text{of actual instruction} & \div 60 & = \text{total credit hours} & \text{1/10}^{\text{th}} \text{ of a credit hour)} \end{array}$$

(2) Only legal education shall be included in computing the total hours of actual instruction. Programs may be split into accredited and non-accredited hours. Non-instructional portions of programs, such as breaks and introductory remarks, shall not be included in the credit computation. Business meetings or portions of programs devoted to the business of the presenting group do not qualify for credit.

**(B) Accreditation Standards**

The Commission shall approve continuing legal education activities consistent with the following standards:

(1) They shall have significant intellectual or practical content and the primary objective shall be to increase the participant's professional competence as a lawyer or a judge.

(2) They shall constitute an organized program of learning dealing with matters directly related to the practice of law, the exercise of judicial responsibility, professional responsibility, law office management, use of computers, or the ethical obligations of lawyers or judges.

(3) Credit may be given for continuing legal education activities where (i) in person or televised live instruction is used or (ii) mechanically or electronically recorded or reproduced material is used in an organized program.

(4) Continuing legal education materials are to be prepared, and activities conducted, by an individual or group qualified by practical or academic experience in a setting physically suitable to the educational activity of the program.

(5) Thorough, high quality, and carefully prepared written materials should be distributed to all who attend at or before the time the course is presented. It is recognized that written materials are not suitable or readily available for some types of subjects; the absence of written materials for distribution should, however, be the exception and not the rule.

(6) The Commission will not approve for CLE credit:

(a) courses designed to review or refresh recent law school graduates or other attorneys in preparation for any bar examination;

(b) teaching of courses geared primarily toward professionals other than attorneys, law students, or the judiciary;



(c) activities for which the Attorney has already received credit in another form, including attendance (e.g., an Attorney who prepared materials and received credit for presenting a seminar may not also receive credit for the publication of those materials, or for attendance during the time spent speaking at the seminar, but the Attorney may receive credit for attending portions of the seminar which the Attorney did not teach).

(C) Provided a continuing legal education activity is otherwise accreditable, the Commission shall permit an Attorney to receive Delaware CLE credit for an approved continuing legal education activity, notwithstanding that the Attorney also seeks or receives CLE credit for the activity from another State in which the Attorney is a member of the Bar.

(D) An Attorney who has a physical disability or some other special circumstance which makes attendance at continuing legal education activities inordinately difficult for a substantial period of time may file a request with the Commission for a permanent substitute program in lieu of attendance, or a temporary substitute program in lieu of attendance during the period of the disability or special circumstances. The Attorney shall state in writing to the Commission the reasons for the request and a proposal for a continuing legal education plan tailored to the Attorney's circumstances. The Commission shall promptly review the request, seek such additional information as appropriate and approve or disapprove such plans on an individual basis.

#### RULE 7. Accreditation of Sponsors and Programs.

##### (A) Accredited Sponsors

(1) The Commission may designate qualified organizations or persons as Accredited Sponsors. While so designated, any program of continuing legal education organized and conducted by any such Accredited Sponsor shall be an accredited course provided:

- (a) the course satisfies the requirements of Rule 6(B);
- (b) if the course is a live presentation, it also satisfies the requirements of Rule 7(B);
- (c) if the course is not a live presentation, it also satisfies the requirements of Rule 7(C);

and

(d) the Accredited Sponsor complies with all guidelines for attendance records set forth in Rule 5(B).

EXAMPLE (1): Attorney X attends a course sponsored by an Accredited Sponsor. However, the course does not have as its primary objective increasing the participant's professional competence as a lawyer or judge (e.g., the course may be one directed toward paralegals, or focused principally on preparing an attorney for a bar examination). In such an instance, Attorney X, even though the attorney attends a course sponsored by an Accredited Sponsor, would not be entitled to credit for attendance at that course.

EXAMPLE (2): Attorney Y attends a course sponsored by an Accredited Sponsor. The course is of satisfactory content. However, no record of attendance is kept by the Accredited Sponsor. This failure to verify attendance may result in forfeiture of status as an Accredited Sponsor on the part of the course's sponsor, and also result in an inability on the part of the attorney to prove to the Commission the attorney attended that course for credit.

(2) Any person or organization seeking to be designated as an Accredited Sponsor shall apply for such status by filing with the Commission a completed Form 3 together with a filing fee of \$100. The Commission may request from any applicant information in addition to that required by Form 3.

(3) No law firm, legal department of a corporation or agency of government shall be designated an Accredited Sponsor, except for an entity the sole or primary purpose of which is the presentation of continuing legal education programs.

(4) To maintain Accredited Sponsor status, such persons or organizations shall file annually with the Commission a completed Form 3-A together with a filing fee of \$100. The Commission, may request from any Accredited Sponsor information in addition to that required by Form 3-A.

(5) The Commission may, at any time, re-evaluate or condition the status of any person or organization as an Accredited Sponsor. If, after such re-evaluation, the Commission finds there is cause for revocation of the accreditation of a sponsor, the Commission may, after a hearing held on thirty days written notice, revoke the accreditation of the sponsor.

(6) Filing fees may be waived for Accredited Sponsors approved by the Commission on its own motion under Rule 7(A)(1) when the approved continuing legal education activities are presented under the supervision of the Delaware State judiciary, or when the approved continuing legal education activities are provided free of charge to all attendees.

(7) The Commission may issue from time to time a list of Accredited Sponsors it deems to meet the requirements set forth in this Rule.

**(B) Accreditation of Individual Programs**

(1) The Commission may, on its own initiative, or upon application by any Attorney or the provider of any course, accredit all or a portion of a particular course of continuing legal education under these Rules. Application for accreditation of individual programs shall be on the Uniform Application if made by a program provider, and on Form 4 if made by an Attorney. Applications made by a program provider shall be accompanied by a \$25 filing fee. Applications may be submitted before or after presentation of the program, however, if application for course approval is made by an Attorney before attendance, the Attorney shall submit a certificate of attendance from the program within 45 days after the date on which the program ends. The Commission may request from any applicant information in addition to that required by Form 4.

(2) The program must constitute an organized program of learning that satisfies the standards of Rule 6(B).

(3) The program provider, if the applicant, shall be bound by all guidelines set forth in Rule 5(B).

(4) The Commission may approve for credit non-law courses necessary or appropriate to an Attorney's legal practice upon the Attorney's application (e.g. an Attorney who practices environmental law may receive credit for a program on ground water contamination; an Attorney who practices corporate law may receive credit for a program on analyzing financial statements).

**(C) Accreditation of Individual Videotape or Simultaneously Broadcast Programs**

(1) Attorneys may receive credit for viewing the broadcast of any course accredited pursuant to Rule 7(A) or (B) and broadcast simultaneously with the actual presentation of the course. Applications shall be made by the program provider on Form 5 or by the Attorney on Form 5-A. The Commission may request from any applicant information in addition to that required by Form 5 or 5-A.

(2) Attorneys may receive credit for viewing the videotape of any course accredited pursuant to Rules 7 (A) or (B) and videotaped during the actual presentation of the course. Applications shall be made by the program provider on Form 6 or by the Attorney on Form 6-A. The

Commission may request from any applicant information in addition to that required by Form 6 or 6-A.

(3) Conditions for approval of videotape or simultaneously broadcast presentations are:

(a) The program satisfies the requirements of Rule 6(B);

(b) Attendance at the remote place of reception is recorded and verified by an agent designated by the sponsoring entity, who must be a person other than an Attorney seeking to obtain credit under these rules for attending the broadcast, and such attendance records are maintained and submitted in accordance with Rule 5(B);

(c) All written materials available to those attending the course are available, simultaneously with the broadcast or re-broadcast, to those viewing or receiving the course at the remote location;

(d) The remote location must be a physical setting appropriate for learning and taking of notes, and

(e) If the presentation is a videotape of a previously presented course, the original presentation must have taken place no more than two years before the date of the presentation. In addition, any materials made available to persons attending the course from which the videotape was made must be made available to those attending the videotape program.

(4) An Attorney may not receive more than 12 credit hours pursuant to Rule 7(C)(2) in any biannual reporting period.

(D) Accreditation of In-House Programs

(1) The Commission may accredit an In-House program if:

(a) the standards of Rule 6(B) and Rules 7(A), (B), and (C), as appropriate for the program, are satisfied;

(b) an application, which shall be on Form 10, is submitted to the Commission, and

(c) the provider complies with all guidelines for attendance records set forth in Rule 5(B).

(2) The Commission may request from any applicant information in addition to that required by Form 10.

(3) An Attorney may not receive more than 12 credit hours pursuant to Rule 7(D) in any biannual reporting period.

(E) Accreditation of Self-Study Programs

(1) The Commission may accredit a program of self-study if:

(a) the program is an organized program of study which satisfies the standards of Rule 6(B);

(b) an application, which shall be on Form 11, is submitted to the Commission, and

(c) the provider and/or Attorney demonstrates objective means of verifying that the Attorney has in fact completed the program (i.e., the Attorney's objective assertion of completion is necessary for credit, but not sufficient).

(2) The Commission may request from any applicant information in addition to that required by Form 11.

(3) An Attorney may not receive more than 12 credit hours pursuant to Rule 7(E) in any biannual reporting period.

RULE 8. Accreditation of Activities.

(A) Scholarly Writing and Bar Examination Questions

(1) An Attorney may receive credit, upon application to the Commission, for non-paid scholarly writing and publication or for research and writing for preparation of Bar Examination questions and model answers. Applications for credit for Bar Examination questions and model answers shall be on Form 7-A; applications for all other publication work shall be on Form 7. The Commission may request from any applicant information in addition to that required by Form 7 or 7A.

(2) The application for credit hours for such materials must include:

(a) A copy of the material for which credit is sought;

(b) The name and address of any other person participating in the writing or presentation of the content of the material, and a statement of the extent to which that person contributed to the content of the material;

(c) An estimate of the number of hours the Attorney expended preparing the material, and a description of the hours expended;

(d) With regard to published material, the name and address of the publisher and a statement that (i) the written material will be published in a publication having distribution to at least 300 lawyers, (ii) the material is an original work and (iii) the author(s) received no compensation for writing it.

(e) Only unpaid scholarly writing qualifies for credit. Payment to the Attorney's firm constitutes payment to the Attorney. Reimbursement of out-of-pocket expenses is not considered payment. An Attorney who donates payments for scholarly writing to the Delaware Bar Foundation may receive credit.

(3) Credit hours may be allocated to writing and publication, at the election of the author, in the year in which:

(a) The work is delivered to the publisher, and the work is accepted for publication; or

(b) Publication actually occurs.

(4) If the work is not published, the Attorney may, in the Commission's discretion, receive credit for the preparation of the unpublished material.

(5) The Commission will determine the number of credit hours to be allocated to the writing and publication of the work and will notify the applicant promptly on making its determination.

(a) Preparation of a bar examination question and model answer shall entitle an Attorney to five credit hours. Credit for the preparation of a bar examination question shall be pro-rated among Attorneys jointly participating in the preparation of questions.

(b) As a general guideline: articles in general circulation newspapers and periodicals generally do not receive credit; a brief published piece worthy of credit in the Commission's judgment receives 2.5 credit hours; substantive articles appearing in professional newspapers and periodicals such as the Delaware Lawyer that evidence research and analysis generally receive five credit hours. Law review articles, books or chapters of published works are eligible for more credit, in the Commission's discretion.

(c) When a number of Attorneys jointly author a published piece and each seeks credit for the publication, the maximum number of credits for all Attorneys participating in any one work is 30 credit hours.

(6) An Attorney may not receive more than 12 credit hours pursuant to this Rule in any biannual reporting period.

(B) Instruction In or Participation in the Presentation of Accredited Courses

(1) An Attorney may receive credit, upon application to the Commission, for non-paid teaching in an approved continuing legal education activity. Applications shall be on Form 8. The Commission may request from any applicant information in addition to that required by Form 8. If a number of Attorneys seek credit pursuant to Rule 6(A)(3), one application may be submitted on behalf of all. In the absence of an agreement between co-presenters, available credit shall be divided equally between them. Additionally, an Attorney may receive credit upon application to the Commission, for the non-paid teaching of law at accredited law schools, colleges and universities, but credit shall be given only for the hours of actual instruction and grading of papers and examinations related thereto.

(2) Program moderators who do not otherwise teach in the program, but who participate in the program, shall receive credit for 1.5x time of attendance of the portion of the program moderated.

(3) Only unpaid teaching qualifies for credit. Payment to the teaching Attorney's firm constitutes payment to the Attorney. Reimbursement of out-of-pocket expenses is not considered payment for teaching. An Attorney who donates payments for teaching in an approved continuing legal education activity to the Delaware Bar Foundation may receive teaching credit.

(4) Presentations accompanied by thorough, high quality, readable and carefully prepared written materials approved by the Commission will be awarded CLE credit of eight (8) credit hours for each hour of presentation, provided the Attorney certifies that the Attorney did the research and prepared the written materials for the presentation. If other Attorneys assist the presenting Attorney in the research and preparation, the credit hours shall be apportioned among the presenting Attorney and assisting Attorneys in a manner suggested by the applicant or applicants and approved by the Commission. For repeat presentations, Attorneys will be awarded one-half of the credit hours received for the initial presentation.

(5) An Attorney may not receive more than 12 credit hours pursuant to this Rule in any biannual reporting period.

#### (C) Professional Work

(1) An Attorney may receive credit, upon application to the Commission for:

(a) Participation in the work of professional or Court appointed committees, law reviews, organizations or associations that seek improvements in the law or administration of justice.

(b) Service on the Board on Professional Responsibility or as a member of the Preliminary Investigatory Committee or as an appointed Presenter in any investigation or proceeding before the Court on the Judiciary, or as Special Disciplinary Counsel shall be applicable towards satisfaction of the biannual requirement for instruction in Enhanced Ethics pursuant to Rule 4(A)(2).

(c) Service on the Board on Unauthorized Practice of Law, to the extent it requires significant research in the law, legal writing, or regulatory drafting.

(d) Service on the Board of Examining Officers for the Court on the Judiciary.

(2) Applications must include:

(a) A description of the activity for which credit is sought, including an identification of the organization, committee, or association involved;

(b) A statement of the number of hours expended in the activity;

(c) A description of the substantive legal work performed including, for example, contributions to the substance of a continuing legal education program, or research in the law performed;

(d) A copy of any written materials produced by the applicant, as a result of the activity;

(3) Upon receipt of an application, the Commission will determine whether the applicant shall receive credit for the activity and the number of credit hours allocated to it. The Commission shall notify the applicant promptly of its determination.

(4) Applications pursuant to this Rule may be submitted prior to the Attorney's participation in the activity for which credit is sought. If the Attorney applies for credit prior to participation, the Commission may approve the activity for credit in principle, without determining the number of credits appropriate for the activity or disapprove it. If the Commission approves the activity for credit in principle, the Attorney shall submit an application subsequent to participation in the activity from which the Commission will determine the number of credit hours allocated to the activity. Attorneys who wish to have assurance prior to engaging in an activity that they will receive credit for participation are encouraged to apply to the Commission four months prior to participation.

(5) An Attorney may not receive more than 12 credit hours pursuant to this Rule in any biannual reporting period.

(D) Pro Bono Legal Services. An Attorney may receive credit, upon application to the Commission for performing uncompensated legal services for clients unable to afford counsel, provided:

(1) The services are performed pursuant to (i) appointment of the Attorney by a Delaware court, including the United States District Court for the District of Delaware; or, (ii) an assignment of a matter to the Attorney by Delaware Volunteer Legal Services, Inc., Community Legal Aid Society of Delaware, Inc., the Office of the Child Advocate, or Legal Services Corporation of Delaware, Inc.

(2) Credit may be earned at a rate of one hour of CLE credit for every six hours of uncompensated legal services performed.

(3) An Attorney may receive no more than six credit hours pursuant to this Rule 8(D) in any biannual reporting period.

#### RULE 9. Noncompliance.

##### (A) Attorneys Other Than Members of the Judiciary

###### (1) Notice of Noncompliance

(a) In the event an attorney (as used in this Rule 9, the term attorney excludes members of the judiciary) shall fail to complete the required credits by December 31 of the Compliance Year, the Transcript required by Rule 5 may be accompanied by a specific plan for making up the deficiency of necessary credits by April 30 of the Reporting Year. The plan shall be deemed accepted by the Commission unless within 30 days after the receipt of the Transcript, the Commission notifies the attorney to the contrary. The attorney shall report full completion of the plan not later than May 15 of the Reporting Year, by submitting to the Commission the attorney's written notification of completion, including the title, date and number of credits earned at each course, and the attorney's original signature. If the attorney fails to complete the plan by April 30 of the Reporting Year, or to report completion of the plan by May 15 of the Reporting Year, the Commission shall promptly send the attorney a notice of noncompliance informing the attorney that unless the attorney presents satisfactory evidence of compliance within 20 days of the date of the notice, the Commission will file a statement of noncompliance with Disciplinary Counsel. An attorney shall be required to pay to the Supreme Court \$5.00 for each business day that the attorney's make-up plan has not been fully completed and reported to the Commission beginning on May 16 of the Reporting Year, to and including the date of filing. The Commission may waive all or any part of this penalty for good cause shown.

(b) In the event that an attorney shall fail to comply with these rules in any respect, the Commission shall promptly send a notice of noncompliance. The notice shall specify the nature of the noncompliance and state that unless the noncompliance is corrected as provided in Rule 9(A)(1), or satisfactory evidence of compliance is submitted within 20 days of the date of the notice, the Commission will file a statement of noncompliance with Disciplinary Counsel.

(c) Before sending an attorney a notice of noncompliance, the Commission may request the attorney to submit additional information to enable the Commission to evaluate the attorney's compliance with these Rules.

(2) If the Commission has reason to believe that an attorney has submitted a false Transcript or other false information to the Commission, it shall forward the attorney's name to Disciplinary Counsel for investigation and shall notify the attorney it has done so.

(B) Members of the Judiciary

(1) Compliance by members of the judiciary shall be considered as the maintenance of professional competence pursuant to Canon 3A(1) of the Delaware Judges' Code of Judicial Conduct.

(2) If in the sole judgment of the Judicial Commissioner any member of the judiciary fails satisfactorily to comply with these Rules in any respect, the Judicial Commissioner shall take such action as the Judicial Commissioner deems appropriate to induce compliance. If compliance satisfactory to the Judicial Commissioner is not obtained, the Judicial Commissioner shall refer the matter to the Chief Justice for proceedings in accordance with the Rules of the Court on the Judiciary.

RULE 10. Confidentiality.

Unless directed otherwise by the Supreme Court, the files, records and proceedings of the Commission, as they relate to or arise out of any failure of any Attorney to satisfy the requirements of these Rules, shall be deemed confidential and shall not be disclosed, except in furtherance of the duties of the Commission or upon the request of the Attorney affected or as they may be introduced in evidence or otherwise produced in proceedings under these Rules.

RULE 11. Review.

(A) Any Attorney, provider or other person aggrieved by any decision or action of the Commission may petition the Commission for relief within 30 days from the date of mailing of the notice of the action of the Commission. The petition may be accompanied by supporting evidence or documentation including affidavits and may include a request for a hearing. If a hearing is requested, the Commission may conduct a hearing at which the aggrieved party may present evidence and argument in support of the petition.

(B) If the Commission denies such petition as a whole or in part, and if such action affects the substantial rights of the person claimed to be aggrieved, the person may petition the Supreme Court for relief by serving 2 copies thereof upon the Executive Director of the Commission and by filing 6 copies with the Clerk of the Supreme Court, such service and filing to be accomplished within 30 days of the action of the Commission. No petition shall be accepted unless the provisions of this paragraph have been timely fulfilled.

(C) The Supreme Court may summarily refuse a petition which does not affect the substantial rights of the person claimed to be aggrieved. Appeals from the Commission's action to the Supreme Court shall be briefed, argued and determined from the record of the matter before the Commission and not by means of a hearing de novo. Findings by the Commission relating to disputed issues of fact and credibility will not be reversed by the Supreme Court so long as they are supported by substantial evidence.